DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

OMB NO. 0938-0193

**TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 01-014
2. STATE: MAINE
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE(S): 10/1/01

5. TYPE OF PLAN MATERIAL (CHECK ONE):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:
a. FFY 02 $ 2.5 million
b. FFY 03 $ 2.8 million

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
ATTACHMENT 4.19-A, ALL PAGES

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): ATTACHMENT 4.19-A, ALL PAGES

SUBJECT OF AMENDMENT: REVISE REIMBURSEMENT FOR IMDS

11. GOVERNOR'S REVIEW (Check One):
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED
COMMISSIONER, DEPT. OF HUMAN SERVICES OR DESIGNEE

12. SIGNATURE OF STATE AGENCY OFFICIAL:
Rudolph Naples

13. TYPED NAME:
RUDOLPH NAPLES

14. TITLE:
DEPUTY COMMISSIONER, DHS, MANAGEMENT AND BUDGET

15. DATE SUBMITTED: DECEMBER 31, 2001

16. RETURN TO:

Eugene Gassow, Director
Bureau of Medical Services
#11 State House Station
Togus Campus
Augusta, ME 04333-0011

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: December 31, 2001

18. DATE APPROVED: March 25, 2002

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: October 1, 2001

20. SIGNATURE OF REGIONAL OFFICIAL:
Leona Renaud for R. Preston

21. TYPED NAME: Ronald Preston

22. TITLE: Associate Regional Administrator, DMSO

23. REMARKS:

**OFFICIAL**

FORM HCFA-179 (07-92)

*Instructions on Back*

## A. SWING-BED FOR NURSING FACILITY (NF)

1. Reimbursement to Hospitals.

   Reimbursement to hospitals for the provision of NF services to a patient in a swing-bed shall be made at the estimated statewide average rate per patient day for NF services.

2. Establishment of the Estimated Statewide Average Rate per Patient Day.

   See attachment 4.19-D.

3. Ancillary Services.

   Reimbursement to hospitals for ancillary services provided to Maine Care-eligible members staying in swing-beds will be in accordance with these Principles of Reimbursement.

## B. HOSPITAL INPATIENT SERVICES

Aggregate payments to hospitals shall not exceed federal upper limits as specified in 42 CFR 447.272

1. PROSPECTIVE INTERIM PAYMENTS

   a. Acute Care Hospitals

   Prospective reimbursement for non-critical access hospital inpatient services is made at the lower of the Target Amount Computation (TAC), or cost, or charges, as computed in accordance with the Tax Equity And Fiscal Responsibility Act (**TEFRA**), except as stated below plus a DSH adjustment payment for eligible hospitals.

   Prospective reimbursement for licensed critical access hospital inpatient services shall equal the sum of:

   Total Inpatient Operating Costs + Inpatient Costs for the Professional Component for Hospital Based Physician Services + Inpatient Costs for Durable Medical Equipment and Supplies Minus Inpatient Third Party Liability Payments.

   All calculations must be made in accordance with TEFRA, except as stated below, plus a DSH adjustment payment for eligible hospitals.

i. Maine Care Members Awaiting Placement at a NF

aa. Reimbursement for Patients Awaiting Placement at a NF

Reimbursement to hospitals for services provided to Maine Care members awaiting placement at Nursing Facilities (NF's) shall be made prospectively at the estimated statewide average rate per patient day for NF services. At the time of audit by the Department of Human Services, The Department's final settlement will be based on the actual statewide average rate for NF services (whichever is applicable) for the period of time when services were rendered.

bb. Establishment of Prospective Estimated Statewide Average Rate Per Patient Day.

See Attachment 4.19-D.

cc. Determination of The Actual Average Statewide Rate Per Patient Day.

The actual average statewide rate per patient day shall be computed at the time of audit, based on the simple average of the NF rate (whichever is applicable) per patient day for the applicable State fiscal year(years) and prorated for a hospital's fiscal year.

ii. Calculation of Maine Care Prospective Interim Payments (PIP)

Acute care hospitals shall be paid on a prospective payment basis in accordance with the Medicare Principles of Reimbursement.

The Department of Human Services' total annual prospective obligation to the hospitals shall be the **TEFRA,** Inpatient computed amount as described below. In addition, a disproportionate share hospital (DSH) adjustment shall be applied to the PIP if the hospital is a DSH eligible hospital. The Department of Human Services will pay each participating Maine Care hospital provider an annual total, as described here, for services provided to persons covered by the Maine Care program and certain maternal and child health programs of the Department. The Department will make equal weekly payments during the course of the payment year consistent with the total annual obligation.

The following components are summed for the non-DSH (*TEFRA*) portion of PIP: *Inpatient + NF days awaiting placement = TOTAL TEFRA (non-DSH)*. All data for these calculations are from the most recent hospital fiscal year end Medicare cost report as filed with DHS Division of Audit.

aa. Inpatient Component:

For purposes of this subsection, a Maine Care discharge for the most recently completed year is one with a discharge date occurring within the fiscal year and submitted prior to the end of the fifth month succeeding the FYE date. Total inpatient operating costs and charges are those associated with these discharges.

Non Critical Access Hospitals

The lowest of:

1. The number of Maine Care discharges from the most recently completed year multiplied times the prospective TEFRA target amount per discharge for the year in which the PIP is effective. The following adjustments are then made: (1) Maine Care's share of program excludables is added, (2) Maine Care's share of Hospital Based Physicians and Graduate Medical Education costs is added, and (3) Inpatient third party liability payments are subtracted.

2. The Total Inpatient Operating costs net of excludables from the most recently completed year inflated forward two years to current year utilizing the economic trend factor from the most recent edition of the "Health Care Cost Review" from DRI/McGraw-Hill. The following adjustments are then made: (1) Maine Care's share of program excludables is added, (2) Maine Care's share of Hospital Based Physicians and Graduate Medical Education costs is added, and (3) Inpatient third party liability payments are subtracted.

3. The Total Inpatient Charges net of third party liability payments.

Licensed Critical Access Hospital

The Total Inpatient Operating costs from the most recently completed year inflated forward two years to current year utilizing the economic trend factor from the most recent edition of the "Health Care Cost Review" from DRI/McGraw-Hill. To this product is added, (1) Maine Care's share of Inpatient Hospital Based Physicians and Graduate Medical Education costs, (2) Inpatient durable medical equipment and supplies costs. Inpatient third party liability payments are subtracted.

bb. NF Days Awaiting Placement Component

The number of nursing facility census days at the hospital multiplied times the statewide average NF rate per day.

b. Psychiatric Hospitals

Psychiatric hospitals shall be paid weekly prospective interim payments based on the Department's best estimates of the total annual obligation to the hospital. The Department's total annual obligation shall be computed based on the hospital's negotiated rate. The negotiated rate shall be greater than or equal to eighty-five (85) percent but not more than ninety-five (95) percent of the hospital's usual and customary charges.

## C. MAINE CARE INTERIM VOLUME ADJUSTMENT FOR ACUTE CARE AND PSYCHIATRIC HOSPITALS

Maine Care claims data submitted in the first 150 days of the hospital's payment year, shall be analyzed to determine the accuracy of the prospective volume data utilized in the PIP calculation. If there is a deviation of at least five (5) per cent between the actual Maine Care inpatient volume and prospective Maine Care inpatient volume, an adjustment may be made to the PIP utilizing the actual volume data.

## D. MAINE CARE YEAR END RECONCILIATION

1. Acute Care Hospitals

Fiscal year end reconciliation shall be accomplished for all hospitals in accordance with the **MEDICARE** Principles of Reimbursement.

The Department of Human Services will pay each participating Maine Care hospital provider an annual total which when reconciled to the annual PIP shall show an **overpayment** by the Maine Care Program to the hospital provider or an **underpayment** by the Maine Care Program to the hospital provider.

For an **overpayment**, the hospital shall reimburse the Department for the excess payments; and, for an **underpayment**, the Department shall remit the amount of the underpayment to the hospital in a lump sum payment. In either case, the payment shall be made within 30 days of the letter notifying the provider of the results of the year end reconciliation. If more than one year is completed in the same proceeding, the amounts may be summed or netted together as applicable.

The calculation of the total annual obligation to the hospitals shall use the same methodology as that used in the determination of Prospective Interim Payments.

However, calculations shall be based on the hospital's as filed cost report and financial statements.

2. Psychiatric Hospitals

The Department's total annual obligation shall be computed based on the hospital's negotiated rate. The negotiated rate shall be greater than or equal to eighty-five (85) percent but not more than ninety-five (95) percent of the hospital's usual and customary charges. Calculations shall be based the hospital's as filed cost report and financial statements.

## E. MAINE CARE FINAL AUDIT SETTLEMENT

1. Acute Care Hospital

The final audit settlement shall be in accordance with the Medicare Principles of Reimbursement, and cost settled with the hospitals upon receipt of the audit from the Medicare fiscal intermediary.

2. Psychiatric Care Hospital

The Department's final audit settlement of the total annual obligation shall be computed based on the hospital's negotiated rate. The negotiated rate shall be greater than or equal to eighty (85) percent but not more than ninety (95) percent of the hospital's usual and customary charges. Calculations shall be based on the hospital's audited cost report and financial statements.

## F. DISPROPORTIONATE SHARE HOSPITALS (DSH)

A psychiatric care hospital having a Maine Care inpatient utilization rate (based on charges) which equals 1% or greater will be defined as a disproportionate share hospital.

Any hospital meeting the minimum criteria below will be defined as a disproportionate share hospital:

i. The hospital must (a) have a Maine Care inpatient utilization rate at least one standard deviation above the mean Maine Care inpatient utilization rate

for hospitals receiving Maine Care payments in the state (as defined in Section 1923 (b)(1)(A) of the Social Security Act), or (b) have a low-income inpatient utilization rate (as defined in Section 1923 (b)(1)(B) of the Social Security Act) exceeding 25%; and

ii. The hospital must have at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Maine Care plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures.

iii. The obstetric related criteria in subsection 2 above, do not apply to hospitals in which the inpatients are predominately individuals under 18 years of age, or to hospitals which did not offer non-emergency obstetric services as of December 21, 1987.

iv. For purposes of determining whether a hospital is a disproportionate share hospital in a payment year, the Department will use data from the hospital's Medicare as-filed cost report for the same period to apply the "standard deviation" test of subsection 1(a) above and draw charge data from that period to apply the "25%" tests and "1%" tests within this section. If at the time of final audit the as-filed cost reports prove to be inaccurate to the degree that a hospital's disproportionate share status changes, adjustments will be made at that time.

1. PROSPECTIVE DSH ADJUSTMENT PAYMENTS

a. Psychiatric Hospitals

In establishing prospective adjustment payments to a psychiatric care hospital (excluding State run facilities), the Department will rely upon data from the payment year two years prior to the current payment year to determine the prospective adjustment payments to the hospital.

If the data shows that a psychiatric care hospital has met the criteria which describes a disproportionate share hospital and that the hospital has a Maine Care utilization rate, based on inpatient days of one percent as defined in Chapter II Section 45.01-9(1)(c), it shall be reimbursed prospectively at a rate equal to that set forth in C(1)(a) or (b) of this section, plus an additional payment for services provided to patients eligible for medical assistance under the approved Title XIX and Title XXI State plan and services provided to low-income patients. Effective for dates of services

on or after July 1, 1998, the prospective DSH payment will be adjusted to the State fiscal year budgeted amount.

The Maine Care utilization rate (**MUR**) formula, based on patient days, shall be computed as:

**MUR** % = 100 X **M/T**
**M** = Hospital's number of inpatient days attributable to patients who for these days were eligible for Medical Assistance under the State Plan.
**T** = Hospital's total inpatient days

In calculating the Maine Care inpatient utilization rate (**MUR**), the State shall include newborn days, days in specialized wards, administratively necessary days, and days attributable to individuals eligible for Maine Care in another State. The State shall not include, however, days attributable to Maine Care patients between 21 and 65 years of age in Institutions for Mental Disease (IMDs).

b. Acute Care Hospitals

Hospitals which qualify as a disproportionate share acute care hospital will receive the estimated disproportionate share adjustment, which shall be limited to the lesser of:

a. The disproportionate hospital adjustment payment which shall be composed of the actual cost of services, furnished to Maine Care patients, plus the cost of services, provided to uninsured patients (those who have no health insurance or other third party resources which apply to the service for which treatment is sought), less the amount of payments made by those patients, or

b. the disproportionate hospital adjustment payment due the hospital, as prescribed under the statewide aggregate disproportionate share hospital payment cap established by the Centers for Medicare and Maine Care Services (CMS). The aggregate cap includes DSH payments made to all acute care facilities and all institutes for mental diseases. Total DSH payments cannot exceed the aggregate cap established by the Centers for Medicare and Maine Care Services. If the Department, determines that aggregate payments, as calculated under (a), would exceed the cap established by CMS, payments will be determined as follows:

i. For hospitals designated as Institutions for Mental Disease, the cost of services provided to Maine Care patients, less non DSH payments made by the State, plus the cost of services provided to uninsured patients, less any

cash payments made by them, or

ii. For all other disproportionate share acute care services provided, all DSH payments will be proportionately reduced, according to the aggregate amount established by CMS and determined to be available by the State. The original DSH payment percentage determined for each hospital would be applied to the total aggregate DSH payment amount (cap) available.

2. FINAL RECONCILIATION DSH ADJUSTMENT

At the time of final reconciliation any hospital that is determined to be a disproportionate share hospital shall be reimbursed at the amount described in (B) of these allowances plus an additional DSH payment that shall be limited to the lesser of:

a. The actual cost of acute care services, provided to Maine Care patients, plus the cost of services, provided to uninsured patients (those who have no health insurance or other third party resources which apply to the service for which treatment is sought), less the amount of payments made by those patients, or

b. the disproportionate hospital payment due the hospital, as prescribed under the statewide aggregate disproportionate share hospital payment cap established by the Centers for Medicare and Maine Care Services. The aggregate cap includes DSH payments made to all acute care facilities and all institutes for mental diseases. Total DSH payments cannot exceed the aggregate cap established by the Centers for Medicare and Maine Care Services. If the Department, determines that aggregate payments, as calculated under (a), would exceed the cap established by CMS, payments will be determined as follows:

i. For hospitals designated as Institutions for Mental Disease, the cost of services provided to Maine Care patients plus the cost of services provided to uninsured patients, less the total of non-DSH payments made by the State plus any payments made by uninsured patients. Payments will be made to State run facilities first. Remaining DSH payments will be proportionately reduced, according to the aggregate amount established by CMS based on the CMS cap rate for Institutions for Mental Disease; or

ii. For all other disproportionate share acute care services provided, all DSH payments will be proportionately reduced, according to the aggregate amount established by CMS and determined to be available by the State. The original DSH payment percentage determined for each hospital would be applied to the total aggregate DSH payment amount (cap) available.

3. FINAL AUDIT DSH ADJUSTMENTS

At the time of final audit any hospital that has been determined or re-determined to be a disproportionate share hospital shall be reimbursed at the amount described in (B) of these allowances, plus an additional DSH payment that shall not exceed the lesser of:

a. The actual cost of services, furnished to Maine Care patients, plus the cost of services, provided to uninsured patients, (those who have no health insurance or other third party resources which apply to the service for which treatment is sought), less the amount of payments made by those patients, or

b. the disproportionate hospital payment due the hospital, as prescribed under the statewide aggregate disproportionate share hospital payment cap established by the Centers for Medicare and Maine Care Services. The aggregate cap includes DSH payments made to all acute care facilities and all institutes for mental diseases. Total DSH payments cannot exceed the aggregate cap established by the Centers for Medicare and Maine Care Services. If the Department, determines that aggregate payments, as calculated under (a), would exceed the cap established by CMS, payments will be determined as follows:

   i. For hospitals designated as Institutions for Mental Disease, the cost of services provided to Maine Care patients plus the cost of services provided to uninsured patients less the total of non DSH payments made by the State plus payments made by uninsured patients. Payments will be made to State run facilities first. Remaining DSH payments will be proportionately reduced, according to the aggregate amount established by CMS based on the CMS rate for Institutions for Mental Disease; or

   ii. For all other disproportionate share acute care services provided, all DSH payments will be proportionately reduced, according to the aggregate amount established by CMS and determined to be available by the State. The original DSH payment percentage determined for each hospital would be applied to the total aggregate DSH payment amount (cap) available.

**State Plan Under Title XIX of the Social Security Act for the State of Maine**

## ASSURANCES AND RELATED INFORMATION FOR INPATIENT HOSPITAL SERVICES

### A. PAYMENT RATES

The Maine Medicaid Agency assures the Federal Government that the payments provided by the agency for inpatient hospital services comply with Section 1902(a)(13(A) of the Social Security Act and the regulations published under 42 CFR Part 447. The Maine Medicaid Agency further assures the Federal Government that the payment rates for inpatient hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards, as is required under 42 CFR 447.253(b)(1).

The Maine Medicaid Agency assure the Federal Government that the payment rates for inpatient hospital services are adequate to assure that members have reasonable access to such services in the Medicaid Program, as is required under 42 CFR 447.253(b)(ii)(C). Since the rates provide payment which is adequate for efficient and economically operated facilities to meet the needs of its residents, all hospitals are expected to continue providing services to Medicaid members. The levels of reimbursement provided for under the Rules for critical access hospitals ensure continued availability of quality inpatient hospital services to Medicaid members on a statewide and geographic basis.

Finally, the State assures that payment for inappropriate levels of care (days awaiting placement) is made at the statewide average rate, in accordance with 42 CFR 447.253(b)(1)(ii)(B).

### B. UPPER LIMITS

The Maine Medicaid Program complies with the upper limit requirements under 42 CFR 447.253(b)(2). The Medicare rate of increase limit will be applied on a provider-specific basis for all hospitals except those who serve a disproportionate share of low income patients.

Also the State assures that the Maine Medicaid Program complies with 42 CFR 447.271 by ensuring that the agency will not pay a provider for inpatient hospital services more than the provider's customary charges to the general public for such services.

Further, the State assures the agency payment rate will not exceed the upper payment limit as specified in Section 1923 of the Social Security Act and 42 CFR 447.272.

### C. PROVIDER APPEALS

The Maine Medicaid Agency assures that a provider appeals system is in place, This system provides an appeals procedure which allows individuals providers an opportunity to submit additional evidence and request prompt administrative review of payment rates, as specified in 42 CFR 447.253(c).

D. UNIFORM COST REPORTING

The Maine Medicaid Agency assures that a system is in place to provide for the annual filing of uniform cost reports by each participating provider, as required under 42 CFR 447.253(d).

E. AUDIT REQUIREMENTS

The Maine Medicaid Agency assures that a system is in place to provide for periodic audits of the financial and statistical records of participating providers, as required under 42 CFR 447.253(e).

F. PUBLIC NOTICE

The Maine Medicaid Agency assures that the public notice requirements cited in 42 CFR 447.205 have been met.

G. The Medicaid Agency makes payment for inpatient hospital services in accordance with 42 CFR 447.

H. EXCLUDED COSTS

The Medicaid agency assures that the costs for the following items are not included in the payment methodology:

- Demonstration projects designed to assess alternative reimbursement systems
- Off-site preceptorship programs
- Volunteer gift and coffee shops
- Poison control centers
- Meals on Wheels programs, expenses of Medical office buildings, rental space, long-term care facilities, and home health programs not associated with acute patient care services.

Att4.19A5.doc